

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>12/14/15</u>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
YEHUDAH TZIYON KE'ISH MIL'CHAMOT,

Plaintiff,

-v-

NEW YORK CITY HOUSING AUTHORITY,

Defendant.
----- X

15 Civ. 108 (PAE)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

On June 23, 2015, Yehudah Tziyon Ke'ish Mil'chamot, proceeding *pro se*, filed an amended complaint against the New York City Housing Authority ("NYCHA"), alleging that the NYCHA violated his federal constitutional rights and his rights under the Americans with Disabilities Act. Dkt. 12. On September 25, 2015, the Court referred the action to the Honorable Henry B. Pitman, United States Magistrate Judge, for general pretrial matters. Dkt. 20.

On October 1, 2015, Mil'chamot filed two documents entitled "Order to Show Cause for Preliminary Injunction and Temporary Restraining Order." Dkts. 22, 23. Both documents relate to discovery that Mil'chamot seeks from non-parties to this action. *Id.* On November 25, 2015, Judge Pitman issued a Report and Recommendation (the "Report") recommending that Mil'chamot's motions be denied without prejudice to renewal by way of a motion for expedited discovery after a subpoena has been served on the non-party witnesses. Dkt. 26, at 2. The Report indicates that Mil'chamot was to file any objections no later than December 9, 2015. *Id.* at 2-3. To date, Mil'chamot has not filed any objections to the Report.

A. Applicable Legal Standard

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). When specific objections are made, “[t]he district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). To accept those portions of the report to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009) *aff’d*, 453 F. App’x 88 (2d Cir. 2011) (summary order) (internal quotation marks and citation omitted); *see also Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

B. Discussion

Careful review of Judge Pitman’s Report reveals that there is no facial error in its conclusions. The Report is, therefore, adopted in its entirety. Mil’chamot’s failure to file written objections in a timely manner operates as a waiver of appellate review. *See DeLeon v. Strack*, 234 F.3d 84, 86 (2d Cir. 2000) (citing *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989)).

CONCLUSION

For the foregoing reasons, the Court adopts the Report in its entirety. The Clerk of Court is respectfully directed to terminate the motions pending at Dkts. 22 and 23.

SO ORDERED.


Paul A. Engelmayer
United States District Judge

Dated: December 14, 2015
New York, New York